

ARTICLE APPEARED
ON PAGE A9

THE WASHINGTON POST
5 December 1981

Tafoya Guilty of Misdemeanor Shooting of Libyan

By Douglas L. Vaughan
Special to The Washington Post

FORT COLLINS, Colo., Dec. 4—Former Green Beret Eugene Tafoya was convicted today of misdemeanor assault and conspiracy in the October, 1980, shooting of Libyan dissident leader Faisal Zagallai.

Tafoya, who had been accused of being a hit man for the Libyan government, was acquitted of attempted murder and conspiracy to kill Zagallai, who was warned by the FBI before the shooting that his life might be in danger.

"I'm terribly shocked," Zagallai said when the verdict was announced. "I think there is some hidden hand behind this whole trial. I think the decision was prejudiced. This is supposedly a system that fights terrorism, but this decision encourages terrorism."

Prosecutors had accused Tafoya of being a mercenary in the employ of former CIA agent Edwin P. Wilson. Tafoya was charged with attempted murder and conspiracy to kill Zagallai, 35, as part of a plot to liquidate opponents of the regime of Libya's Col. Muammar Qaddafi.

Tafoya claimed he went to Zagallai's apartment on Oct. 14, 1980, to deliver a message from the CIA and shot Zagallai in self-defense when the Libyan pulled a gun from beneath a sofa cushion. CIA agents testified last week Tafoya never worked for the agency.

Foreman Gary W. Thornburg said the jurors dispensed with Tafoya's self-defense claim after weighing the testimony of Zagallai, Tafoya and an eyewitness who supported Tafoya's version.

As for the conspiracy, Thornburg said, "We really were not that concerned with other parties, but we've definitely felt there was someone else involved."

Thornburg said the jurors had trouble deciphering the case because of tantalizing references—often unsupported by physical evidence or testimony of witnesses—to the international aspects of the case, which had been touted as the first public examination of charges that ex-CIA agents and former Green Berets were involved in an assassination plot directed by a foreign power.

"We went with the theory there was a conspiracy," Thornburg said, "but we couldn't tell who [Tafoya] was working for."

"There may have been a link to Wilson, but we couldn't tell how he fit in. I would have liked to ask a lot more questions about that."

Prosecutors presented evidence that Tafoya solicited work as a demolitions expert, and the defendant acknowledged on the witness stand that he once asked another former Green Beret if he knew "anyone that should quit breathing? Permanently?"

Thornburg said the jurors had trouble deciding what that comment meant. The jurors did not know the comment was extracted from a tape of a conversation in which Tafoya claimed credit for the firebombing of a car belonging to a former business associate of Wilson in Canada in May, 1979.

In closing arguments, prosecutors described the shooting as a "planned execution, but Tafoya bungled the job." But jurors apparently accepted the defense argument that Tafoya was too competent as a result of his military training to fumble such an assignment.

As a result, Thornburg said, they also acquitted Tafoya of second-degree attempted murder—of knowingly and willingly trying to kill Zagallai. "We could not convict on that charge because of [Tafoya's] background."

Prosecutors had agreed that jurors would not consider a possible charge of assault with a deadly weapon, leaving the misdemeanor charges as the jury's only alternative to acquittal. The assault conviction carries a sentence ranging from six months to two years and a fine of \$500 to \$5,000. The conspiracy count is punishable by up to six months in jail and a \$50 fine. Larimer County District Judge J. Robert Miller ordered Tafoya released on \$5,000 property bond until sentencing.

Obviously pleased with the verdict, defense attorney Scott Robinson said, "Gene Tafoya has faced his accusations and been acquitted of everything but misdemeanors. He has no prior criminal record. He has already spent seven months in jail and to keep him in jail would be a travesty."

Tafoya, however, was reportedly upset that he did not walk away from this trial with a clean slate. According to a sheriff who accompanied Tafoya to the jail, "he was angry at his attorneys. He thought he should have had a home run."